

Appl. No. : 10/753,105
Filed : January 7, 2004

REMARKS

By way of summary, Claims 1-18 were originally filed with the application. In a subsequent response to office action, the Applicant canceled Claims 1-12 without prejudice. Accordingly, Claims 13-18 remain pending in the application. By this amendment, Claims 13 and 16 are amended and Claim 19 is added.

Claim rejections under 35 U.S.C. § 103(a)

In the Office Action, the examiner rejected Claims 13-18 as being unpatentable over the 892-cited NPL “U”-Fix-it manual for pop up sprinkler repair (“Sprinkler Manual”) in view of Cline 7,043,946. The Applicant traverses this rejection based on the reasons set forth below.

The Examiner stated that the Sprinkler Manual teaches a method of repairing a sprinkler head by removing the cap and internal mechanisms, then replacing the sprinkler head in the ground when finished. However, “if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.” M.P.E.P. § 2143.01(VI) (citing *In re Ratti*, 270 F.2d 810, 813 (C.C.P.A. 1959) (reversing obviousness rejections because “suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change in the basic principle under which the [primary reference] construction was designed to operate.”); see also *In re Gordon*, 733 F.2d 900, 902 (Fed. Cir. 1984) (reversing obviousness rejection that was based on prior art that, with proposed modification, “would be rendered inoperable for its intended purpose”). In view of Applicant’s amended Claim 13, the proposed modification in the present invention would render the Sprinkler Manual inoperable for its intended purpose such that the sprinkler head can no longer be used for irrigation. As such, the Sprinkler Manual cannot be used as prior art in a § 103(a) rejection.

Additionally, Cline clearly teaches away from devices that are portable and from those without a lock mechanism. In column 1, Cline states that “[w]hat is needed is a device for storing valuables that is disguised, that may be *securely locked*, and that is sufficiently large and/or heavy that it *cannot be easily lifted* and transported off-site by a thief” (emphasis added). Certain aspects of the present invention provide a key hiding device that resembles a pop-up

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sprinkler housing and is sufficiently small and lightweight to be removable from its location. Accordingly, the pending claims are not obvious in view of Cline.

Conclusion

In view of the foregoing, the Applicant respectfully submits that all pending claims of the present application are in condition for allowance, and such action is earnestly solicited. Should there be any impediment to the prompt allowance of this application that could be resolved through a telephone conference, the Examiner is respectfully requested to call the undersigned at the number shown below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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